

Conditions Appendix

- (1) Commission Staff will be granted access to all books, accounts, records and personnel of FairPoint, C-R, El Paso, and Odin and all of their utility and non-utility affiliated sister and subsidiary companies, as well as independent auditor's working papers, to the extent permitted by the rules and policies of the independent auditor;
- (2) C-R, El Paso, and Odin will continue to comply with 83 Ill. Admin. Code 712; and
- (3) FairPoint, C-R, El Paso, and Odin and all their utility and non-utility affiliated sister and subsidiary companies will conduct annual internal audits to test compliance with Section 7-204(b)(2) and 7-204(b)(3). The internal audit report documenting findings, conclusions and recommendations will be submitted to the Manager of Accounting of the Commission by March 31st each year and associated working papers will be available to Commission Staff for review.
- (4) That C-R, El Paso, and Odin be prohibited from increasing tariffed retail rates for one year after the effective date of the reorganization;
- (5) That C-R, El Paso, and Odin are prohibited from using any increased costs, as a result of this recapitalization, to justify any increases in their levels of support from the Universal Service Fund;
- (6) An Operating Company (i.e., C-R, El Paso, and Odin) will be prohibited from paying dividends to FairPoint or from otherwise transferring cash to FairPoint through loans, advances, investments, or other means that would divert their moneys, property, or other resources that is not essentially or directly connected with the provision of non-competitive telecommunications service if that operating company fails to meet or exceed the standard, set herein, for a majority of the service quality measures:

a) STANDARDS:

	C-R	El Paso	Odin
Toll & Assistance Answer Time (Part 730.510(a)(1)(A))	10 sec.	10 sec.	10 sec.
Information Answer Time (Part 730.510(a)(1)(B))	10 sec.	10 sec.	10 sec.
Business Office Answer Time (Part 730.510(b)(1))	60 sec.	60 sec.	60 sec.
Repair Office Answer Time (Part 730.535(a))	60 sec.	60 sec.	60 sec.

	C-R	El Paso	Odin
Interruptions of Service (Part 730.535(a))	1.0%	2.2%	3.2%
Installation Requests (Part 730.540(a))	1.0%	1.0%	1.3%
Trouble Reports per 100 lines (Part 730.545(a))	1.2	2.4	2.8

If any of the Operating Companies are granted a permanent waiver from having to comply with a key service quality measure in Docket Nos. 04-0278 through 04-0281, then that service quality measure shall not be included in the list. Until the Commission issues an order in Docket Nos. 04-0278 through 04-0281, key service quality measures Toll & Assistance Answer Time, Information Answer Time, Business Office Answer Time, and Repair Office Answer Time shall be included in the condition, but not used to determine compliance with this condition. If a permanent waiver is denied, then those service quality measures shall be used to determine compliance. A standard shall be the average of the two-year actual performance of that operating company for that service quality measure, for the past twenty-four months;

- b) **MEASUREMENTS:** Measurements shall commence on the date the securities are issued, and will be taken on an annual basis;
- c) **ANNUAL REPORTS:** FairPoint shall file an annual report with the Chief Clerk's Office and posted in this docket. The annual report shall be filed December 1st of each year. Within the annual report, FairPoint shall identify each carrier and the title of the service quality measure, and by operating company FairPoint shall list the standard set by the Commission for each service quality measure and the actual performance for each annual period. The annual report shall present the actual performance data for every month after the date the securities are issued, with the initial month of data presented in the report being July 2004;
- d) **FINAL NOTICE:** When FairPoint's issuer credit rating from both Standard & Poor's ("S&P") and Moody's Investors Service improves to investment grade, FairPoint shall send a certified notice to the Commission, with a third-party independent verification, that its issuer credit rating has been upgraded to investment grade. A corporate officer shall certify that the notice is true and accurate;
- e) **DURATION OF CONDITION:** The duration of time this condition should remain in effect is until FairPoint's issuer credit rating increases to investment grade;

- (7) That FairPoint keep available exclusively for the Illinois operating telephone companies, under its senior secured credit facility, an amount equal to the higher of \$1 million or the currently approved capital expenditures budget for all three Illinois operating telephone companies. FairPoint should certify annually to the Commission that the required amount is available to the Illinois operating companies for the ensuing year. Therefore, on December 1 of each year, FairPoint shall send a notice to the Commission certifying that such amount was then currently available, and for the ensuing year what the dollar commitment would be for the Illinois companies based on the capital expenditure budget for the following year; and
- (8) FairPoint's credit facility agreement shall provide that the ceiling on aggregate capital expenditures in any fiscal year for FairPoint and its subsidiaries shall be at least 30% of FairPoint's Earnings before Interest, Taxes, Depreciation, and Amortization ("EBITDA") for such fiscal year.
- (9) The cost of capital, as reflected in the Illinois Utilities' rates, shall not be adversely affected by the reorganization of FairPoint. Subsequent to the completion of the reorganization, the cost of capital for the Illinois Utilities in any future earnings analysis or rate base/rate of return case shall be set commensurate with the risk of the Illinois Utilities exclusive of any reorganization effects. Joint Applicants will not oppose, in either a regulatory proceeding or an appeal of a decision by the Commission, the application of the principle that the determination of the cost of capital shall be based solely on the risk attendant to the regulated operations of the Illinois Utilities. Any declines in the Illinois Utilities' financial condition caused by the reorganization or its announcement shall be quantified by the Joint Applicants in any future earnings analysis, or rate base/rate of return case and adjusted as if such declines did not occur. Joint Applicants shall use an imputed or hypothetical capital structure in any future earnings analysis, or rate base/rate of return rate case, if necessary to reflect the cost of capital for the Illinois Utilities without the effects of the reorganization.
- (10) Joint Applicants shall not allow any affiliate of the Illinois Utilities, including FairPoint, to obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the Illinois Utilities' assets. The financial arrangements of all affiliates of the Illinois Utilities, including FairPoint, are subject to the following restrictions:
 - a. Any indebtedness incurred by an affiliate, including FairPoint, will be without recourse to the Illinois Utilities.
 - b. The Illinois Utilities shall not enter into any agreements under terms whereby the Illinois Utilities are obligated to commit funds in order to maintain the financial viability of an affiliate, including FairPoint.

- c. The Illinois Utilities shall not make any investment in an affiliate, including FairPoint, under circumstances in which the Illinois Utilities would be liable for the debts and/or liabilities of an affiliate incurred as a result of acts or omissions of an affiliate, including FairPoint.
 - d. The Illinois Utilities shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an affiliate, including FairPoint.
 - e. The Illinois Utilities shall not assume any obligation or liability as guarantor, endorser, surety or otherwise with respect to any security of an affiliate, including FairPoint.
 - f. The Illinois Utilities shall not pledge, mortgage or otherwise use as collateral any assets of any of the Illinois Utilities for the benefit of an affiliate, including FairPoint.
 - g. Joint Applicants shall assure that rates to the regulated service customers of the Illinois Utilities are not increased by reason of the effects of credit rating declines or other adverse consequences caused directly by the reorganization.
- (11) Dividend transfers from the Illinois Utilities to affiliated companies during any calendar year shall be reported to the Illinois Commerce Commission ("Commission") within one week of the declaration of dividends. "Dividend transfers" shall be defined as the amount of common dividends directly or indirectly remitted to affiliated companies. Within 1 week following the declaration of dividends by any of the Illinois Utilities as specified above, the Illinois Utility shall submit a report of the declaration of dividends to the Manager of the Finance Department and the Office of the Chief Clerk. The Illinois Utilities shall also submit financial statements for the last 12-month period available at the time of the dividend declaration report to the Commission's Manager of the Finance Department.
- If FairPoint's senior debt is rated at least Baa2 by Moody's or its successors or BBB by Standard & Poor's or its successors, or if the Illinois Utilities are no longer owned or controlled by FairPoint, upon notification to the Office of the Chief Clerk and the Manager of the Finance Department, compliance with the dividend reporting requirement will not be necessary and the submission of financial statements may be suspended.